HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 2719 of 2007

Petitioner Durgesh Prasad Mishra, S/o Krishna Prasad Mishra, Aged about 32 years, R/o Village Nagpura, Tehsil & District Durg, C.G.

Versus

Respondents

1. State of Chhattisgarh, Through the Secretary, Department of General Administration, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Chief Conservator of Forest, Government of Chhattisgarh, Jail Road, Raipur C.G.
3. Additional Chief Conservator of Forest, (Adm./Non-Gazetted) Raipur, C.G.
4. Conservator of Forest, Durg Circle, District Durg, C.G.
5. Divisional Forest Officer, Forest Division, Durg, District Durg, C.G.
6. The Collector, District Durg, C.G.

Writ petition under Article 226 of the Constitution of India

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Present: Mr. Jitendra Gupta, Advocate for the petitioner.
Ms. Sunita Jain, Panel Lawyer for the State/respondents.

O R D E R
(Passed on 4th Day of May, 2007)

1. The petitioner, son of Late Shri Krishna Prasad Mishra, seeks a direction to the respondent authorities to grant compassionate appointment.

2. The indisputable facts, in nutshell, are that the father of the petitioner namely Shri Krishna Prasad Mishra, while working as Forester in the office of Divisional Forest Office at Durg, died in harness on 11.03.1996. The petitioner made an application for compassionate appointment on 14.06.1996. Thereafter, several representations were made. The petitioner made one more application on 04.01.2001. It was replied by the State authorities that no vacancy is available as on 08.12.2006.

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3. Be that as it may. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for reliving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

4. In **Haryana State Electricity Board and another Vs. Hakim Singh** {(1997) 8 SCC 85} the Supreme Court held that "the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of it sole earning member."

5. The Supreme Court in the case of **State of J & K and others Vs. Sajad Ahmed Mir** {(2006) 5 SCC 766}, in para 11 has held as under:

> "11..... it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to once at the cost of the interest of several others ignoring the mandate of Article 14 of the Constitution."

6. In view of the above settled principles of law, there is no merit in this petition. The petition is accordingly dismissed summarily. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

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